

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Craig D. Hines and Claudia D. Hines

Case No. 11-80183

Chapter 13

Social Security Nos.: xxx-xx-8346 & xxx-xx-9716

Address: 1725 Alfred St. Aka 1003 Jerome Road,
Durham NC 27713

Debtor

**MOTION FOR AUTHORITY TO SELL AT
AUCTION REAL PROPERTY
AND TO EMPLOY AUCTIONEER**

NOW COMES the Debtors, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to sell at auction real estate and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtors have filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on January 31, 2011
2. This motion is being made so that the Debtor Craig Hines may sell at private sale the subject real property.
3. The Debtor Craig Hines is the owner of certain real property (hereinafter referred to as "said property") located in Durham County in the State of North Carolina and known as 1114 Gurley Street, Durham NC 27701, and more particularly described as follows:

BEGINNING at a point marked by an iron stake in the eastern margin of Lynchburg Street, 202.8 feet Northward from the northern side of Lee Street (formerly called Clements Alley), being the southwestern corner of Lot #13 and running thence South 86° 25' East 183.9 feet with the southern boundary of Lot #13 to the point marked by an iron stake in the eastern boundary of Lot # 13; thence with the original eastern boundary of Lot #13 South 3° 28' West 18.5 feet to a point marked by an iron stake beside a Sycamore Tree on the northern edge of the branch, the original southeastern corner of Lot #13; thence up the branch South 89° 13' West 186.5 feet to the point marked by an iron stake in the eastern margin of the street, thence North 6° 26' East 32 feet to the BEGINNING and being the southern portion of Lot # 13 of the Martha Lay Lands as per plat recorded in Deed Book 13 at Page 25 to which reference is hereby made for a more particular description. This is the same property conveyed to Percy Jackson by Deed of John D. Allison and wife, Idonia. Allison, dated January 27, 1998, and recorded in Book 2449, Page 534, Durham County Registry.

4. Said property is listed on Schedule A attached to the Petition filed in this case.
5. On August 4, 2011, the Debtor entered into an Exclusive Right to Sell Listing Agreement with NC Real Auctions, LLC for the purpose of selling said property at auction to highest bidder.
6. A copy of the Exclusive Right to Sell Listing Agreement with NC Real Auctions, L.L.C, showing projected costs and a 6% commission is attached herewith as Exhibit A.
7. Upon information and belief, as of the date of this motion, the only lien encumbering said property is that of Durham County property taxes in the amount of \$1,310.30.
8. That the Debtor believes the proposed sale to be in the best interest of the Debtor for the following reason(s):
 - a. The Debtor cannot afford to keep the property.
 - b. Selling the property will lower the expenses of the Debtor, thereby promoting the financial rehabilitation of the Debtor.
 - c. The proposed Chapter 13 plan requires the sale of the property.
9. The proposed sale will not affect the ability of the Debtor to successfully complete the Chapter 13 plan.
10. The proposed sale does not adversely affect the interests of the bankruptcy estate.
11. The Debtor agrees to turn over all net proceeds of the sale to the Chapter 13 Trustee for distribution to general unsecured creditors.
12. That the presumptive fee for a Motion to Sell Real Property is \$450.00, and the presumptive fee for an Application for Employment of a Profession is \$250.00. Debtor's counsel believes that \$450.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtor concerning the proposed sale, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with real estate agents, the purchasers and the closing attorney for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the sale, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details. The also takes into account the **substantial risk** inherent in all real estate sales situations that undersigned attorney will perform these services and not get paid because, for one reason or another, the sale falls through.

WHEREFORE, the Debtor respectfully prays that the Court allow the said sale of the subject real property, allow the employment of NC Real Auctions, approve payment of the attorney fee through the Debtor's Chapter 13 plan, and grant such other and further relief as to this Court seems just and

proper.

Dated: August 8, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury L. Hicks

Koury L. Hicks

N.C. State Bar No.:36204

1738-D Hillandale Rd.

Durham, N.C. 27705

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CERTIFICATE OF SERVICE

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on August 8, 2011, I served copies of the **MOTION FOR AUTHORITY TO SELL AT AUCTION REAL PROPERTY AND TO EMPLOY AUCTIONEER**, electronically or when unable by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, NC 27702

Ron Daniels
Realtor
Nc Real Auctions, LLC
202 Red Mountain Road
Rougemont, NC 27272

Michael West
Bankruptcy Administrator
Post Office Box 1828
Greensboro, NC 27402

Craig Hines
202 Red Mountain Road
Rougemont, NC 27572

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s Renee Nolte
Renee Nolte